

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KENNETH THOMAS,

Plaintiff,

v.

GITTERE, et al.,

Defendants.

Case No. 2:22-cv-01919-APG-NJK

ORDER

(Docket No. 4)

This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by a state prisoner. Plaintiff has applied to proceed *in forma pauperis*. Docket No. 4. Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

The Court entered a screening order on December 29, 2022. Docket No. 5. The screening order imposed a 90-day stay and the Court entered a subsequent order in which the parties were assigned to mediation by a court-appointed mediator. Docket Nos. 5, 8. A settlement was not reached at the mediation conference. *See* Docket No. 10.

Accordingly, and for the reasons stated above,

IT IS ORDERED that Plaintiff's application to proceed *in forma pauperis*, Docket No. 4, is **GRANTED**. Plaintiff will not be required to pay an initial installment of the filing fee. Further, Plaintiff is permitted to maintain this action to conclusion without the necessity of prepayment of any additional fees or costs or the giving of security. However, *in forma pauperis* status does not relieve Plaintiff of the obligation to pay the full \$350 filing fee under 28 U.S.C. § 1915(b); it simply means that Plaintiff can pay it in installments. The full \$350 filing fee will remain due and owed even if this case is later dismissed.

IT IS FURTHER ORDERED that the Nevada Department of Corrections will forward payments from the account of **KENNETH L. THOMAS, #83545** to the Clerk of the United States

1 District Court, District of Nevada, 20% of the preceding month's deposits (in months that the
2 account exceeds \$10) until the full \$350 filing fee has been paid for this action.

3 IT IS FURTHER ORDERED that service must be perfected no later than **July 10, 2023**,
4 consistent with Federal Rule of Civil Procedure 4(m).

5 IT IS FURTHER ORDERED that, subject to the findings of the screening order, Docket
6 No. 5, no later than **May 2, 2023**, the Nevada Attorney General's Office ("Attorney General") will
7 file a notice advising the Court and Plaintiff of: (a) the names of the defendants for whom it accepts
8 service; (b) the names of the defendants for whom it does not accept service, and (c) the names of
9 the defendants for whom it is filing the last-known-address information under seal. As to any
10 named defendant for whom it cannot accept service, the Attorney General will file, under seal, the
11 last known address of any defendant for whom it has such information but will not serve this
12 information on Plaintiff. If the last known address of any defendant is a post office box, the
13 Attorney General will attempt to obtain and provide that defendant's last known physical address.

14 IT IS FURTHER ORDERED that, if service cannot be accepted for any named defendant,
15 Plaintiff will file a motion identifying the unserved defendant(s), requesting issuance of a
16 summons, and specifying a full name and address for the defendant(s). For any defendant as to
17 which the Attorney General has not provided last-known-address information, Plaintiff will
18 provide the full name and address for the defendant.

19 IT IS FURTHER ORDERED that, if the Attorney General accepts service of process for
20 any named defendant, such defendant will file and serve an answer or other response to the
21 complaint, Docket No. 6, no later than **June 12, 2023**.

22 IT IS FURTHER ORDERED that Plaintiff will serve upon defendant(s) or, if an
23 appearance has been entered by counsel, upon their attorney(s), a copy of every pleading, motion,
24 or other document Plaintiff submits for the Court's consideration. If Plaintiff electronically files
25 a document with the Court's electronic-filing system, no certificate of service is required. Fed. R.
26 Civ. P. 5(d)(1)(B); LR IC 4-1(b); LR 5-1. However, if Plaintiff mails the document to the Court,
27 Plaintiff will include with the original document submitted for filing a certificate stating the date
28 that a true and correct copy of the document was mailed to the defendant(s) or counsel for the

1 defendant(s). If counsel has entered a notice of appearance, Plaintiff will direct service to the
2 individual attorney named in the notice of appearance, at the physical or electronic address stated
3 therein. The Court may disregard any document received by a district judge or magistrate judge
4 that has not been filed with the Clerk of the Court, and any document received by a district judge,
5 magistrate judge, or the Clerk of the Court that fails to include a certificate showing proper service
6 when required.

7 IT IS FURTHER ORDERED that this case is no longer stayed.

8 The Clerk of the Court is **INSTRUCTED** to (1) **SEND** a copy of this order to the Finance
9 Division of the Clerk's Office and to the attention of **Chief of Inmate Services for the Nevada**
10 **Department of Corrections** at formapauperis@doc.nv.gov; and (2) electronically **SERVE** a copy
11 of this order and a copy of Plaintiff's complaint and exhibits, Docket No. 6, on the Office of the
12 Attorney General of the State of Nevada by adding the Attorney General of the State of Nevada to
13 the docket sheet. This does not indicate acceptance of service.

14 IT IS SO ORDERED.

15 DATED: April 11, 2023.

16
17 
18 _____
19 NANCY J. KOPPE
20 UNITED STATES MAGISTRATE JUDGE
21
22
23
24
25
26
27
28